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8 MICHAEL SCOTT,
9 Plaintiff,

10 v.
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12 UNITED STATES FEDERAL
13 GOVERNMENT,
14 Plaintiff,
15 Defendant.

16 Case No. 13-cv-02719-WHO (PR)

17 **ORDER OF DISMISSAL;**
18 **ORDER DENYING LEAVE TO**
19 **PROCEED IN FORMA PAUPERIS**

20 Plaintiff Michael Scott, a Texas state prisoner proceeding pro se, filed this civil
21 rights complaint pursuant to 42 U.S.C. § 1983. The complaint is DISMISSED with
22 prejudice.

23 A federal court must conduct a preliminary screening in any case in which a
24 prisoner seeks redress from a governmental entity or officer or employee of a
25 governmental entity. *See 28 U.S.C. § 1915A(a).* In its review, the court must identify any
26 cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim
27 upon which relief may be granted or seek monetary relief from a defendant who is immune
28 from such relief. *See id. § 1915A(b)(1), (2).* Pro se pleadings must, however, be liberally
construed. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988). To
state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:
(1) that a right secured by the Constitution or laws of the United States was violated, and

1 (2) that the alleged violation was committed by a person acting under the color of state
2 law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

3 Sections 1915A and 1915(e)(2) accord judges the unusual power to pierce the veil
4 of the complaint's factual allegations and dismiss as frivolous those claims whose factual
5 contentions are clearly baseless. *See Denton v. Hernandez*, 504 U.S. 25, 32 (1992).
6 Examples are claims describing fantastic or delusional scenarios. *See Neitzke v. Williams*,
7 490 U.S. 319, 328 (1989). To pierce the veil of the complaint's factual allegations means
8 that a court is not bound, as it usually is when making a determination based solely on the
9 pleadings, to accept without question the truth of the plaintiff's allegations. *See Denton*,
10 504 U.S. at 32. A finding of factual frivolousness is appropriate when the facts alleged
11 rise to the level of the irrational or the wholly incredible, whether or not there are judicially
12 noticeable facts available to contradict them. *See id.* at 32-33.

13 Scott alleges that he knows that federal agents and other persons have been
14 kidnapped by the United States and hidden "below the surface of the ground in a building
15 in [the] area of [the] [e]astern region of the United States." (Compl. at 3.) These
16 unsupported allegations are frivolous, wholly incredible and fail to state a claim. Not
17 surprisingly, according to Scott they have been rejected by the federal courts in prior
18 lawsuits he has filed. For those reasons, the complaint will be dismissed with prejudice as
19 frivolous under sections 1915A and 1915(e)(2). Scott's application to proceed *in forma*
20 *pauperis* (Docket No. 13) is DENIED because the action is frivolous. *Tripathi v. First Nat.*
21 *Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987).

22 The Clerk shall enter judgment in favor of defendant, terminate Docket No. 13, and
23 close the file.

24 **IT IS SO ORDERED.**

25 **Dated:** August 4, 2014


26 WILLIAM H. ORRICK
27 United States District Judge
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